

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

JENNIFER KILPATRICK,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CIVIL ACTION FILE
	)	FILE NO. 5:19-cv-00073-MTT
GEORGIA CVS PHARMACY, LLC,	)	
and JOHN DOES NOS. 1-10,	)	
	)	
Defendants.	)	

**DEFENDANT GEORGIA CVS PHARMACY, LLC'S ANSWER TO  
PLAINTIFF'S COMPLAINT FOR DAMAGES**

COMES NOW GEORGIA CVS PHARMACY, LLC, Defendant in the above-captioned matter, by and through its undersigned counsel, and files this, its Answer to Plaintiff's Complaint for Damages, showing this Honorable Court as follows:

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

Plaintiff was contributorily negligent, and any recovery must be reduced accordingly, or barred entirely.

## **SECOND AFFIRMATIVE DEFENSE**

Plaintiff's injuries, if any, are attributable to causes other than the acts and/or omissions of this Defendant and are reasonably capable of being apportioned among the causes. Plaintiff's recovery against this Defendant, if any, must be denied for injuries not attributable to this Defendant.

## **THIRD AFFIRMATIVE DEFENSE**

Plaintiff's alleged injuries and damages may have been the result of an independent, intervening, and superseding cause over which this Defendant had no control. Any alleged action or alleged omission on the part of this Defendant was not the proximate cause of alleged damages.

## **FOURTH AFFIRMATIVE DEFENSE**

Venue is improper.

## **FIFTH AFFIRMATIVE DEFENSE**

Defendant hereby responds to the specific allegations contained in Plaintiff's Complaint as follows:

1.

The Defendant, Georgia CVS Pharmacy, LLC (hereinafter "CVS"), is a domestic limited liability company licensed to conduct business in the State of Georgia which maintains its principal place of business in Rhode Island and, a

registered agent in Gwinnett County, Georgia, but is nevertheless subject to the venue and jurisdiction of this Court pursuant to O.C.G.A. § 14-2-510.

**RESPONSE: The allegations contained in Paragraph 1 of Plaintiff's Complaint are denied.**

2.

The Defendant John Does Nos. 1-10, at all times relevant to this Complaint for Damages, was and is an employee and/or agent of the Defendant CVS, subjecting him to the jurisdiction and venue of this Court as a joint tort-feasor.

**RESPONSE: Having made a reasonable inquiry, the information readily available to this Defendant is insufficient for it to either admit or deny the allegations contained in Paragraph 2 of Plaintiff's Complaint.**

3.

The Defendant, CVS, owns and/or operates the retail establishment and premises located at 1271 Gray Highway, Macon, Georgia, 31211 (hereinafter "subject premises").

**RESPONSE: Defendant admits that it operated the property referenced in Paragraph 3 of Plaintiff's Complaint, but denies the remaining allegations contained therein.**

4.

On or about March 17, 2017, on the subject premises, the Plaintiff, as an invitee, slipped and fell on a dangerous substance to the negligence of the Defendants CVS and John Does Nos. 1-10.

**RESPONSE: The allegations contained in Paragraph 4 of Plaintiff's Complaint are denied.**

5.

The Defendant John Does Nos. 1-10, an employee and/or agent of the Defendant CVS, was negligent, as pled in ¶4, by failing to provide sufficient warning of the subject dangerous surface, by failing to inspect and discover the dangerous surface, by failing to remove and/or correct the dangerous surface, and by failing to use ordinary care in preventing hazardous conditions that could result in a slip and/or fall.

**RESPONSE: Having made a reasonable inquiry, the information readily available to this Defendant is insufficient for it to either admit or deny the allegations contained in Paragraph 5 of Plaintiff's Complaint. Defendant denies any allegation of negligence alleged on the part of Georgia CVS Pharmacy, LLC.**

6.

The Defendant CVS, the owner and/or operator of the subject premises, was negligent, as pled in 114, by failing to provide sufficient warning of the subject dangerous surface, by failing to inspect and discover the dangerous surface, by failing to remove and/or correct the dangerous surface, by failing to use ordinary care in preventing hazardous conditions that could result in a slip and/or fall, and by hiring and retaining an unsafe employee(s), to wit: Defendant John Does Nos. 1-10.

**RESPONSE: The allegations contained in Paragraph 6 of Plaintiff's Complaint are denied.**

7.

As a proximate and foreseeable result of the Defendants' negligence, the Plaintiff was seriously injured, incurring medical expenses in excess of \$17,700.00, as well as lost wages in excess of \$1.00.

**RESPONSE: The allegations contained in Paragraph 7 of Plaintiff's Complaint are denied.**

8.

In addition to ¶7, the Plaintiff has endured and will continue to endure pain and suffering.

**RESPONSE: The allegations contained in Paragraph 8 of Plaintiff's Complaint are denied.**

9.

The Plaintiff has a cause of action against the Defendant John Does Nos. 1-10 for negligence and all other applicable theories of liability.

**RESPONSE: Having made a reasonable inquiry, the information readily available to this Defendant is insufficient for it to either admit or deny the allegations contained in Paragraph 9 of Plaintiff's Complaint. Defendant denies any allegation of negligence alleged on the part of Georgia CVS Pharmacy, LLC.**

10.

The Plaintiff has a cause of action against the Defendant CVS for negligence, negligent hiring and retention of an unsafe employee(s), respondeat superior, and all other applicable theories of liability.

**RESPONSE: The allegations contained in Paragraph 10 of Plaintiff's Complaint are denied.**

11.

The Plaintiff is entitled to recover from the Defendants for her past and future medical expenses, lost wages, past and future pain and suffering, and all other

damages as permitted by Law.

**RESPONSE: The allegations contained in Paragraph 11 of Plaintiff's Complaint are denied.**

**Any allegations not specifically referenced or responded to are hereby denied.**

**WHEREFORE,** having fully answered Plaintiff's Complaint for Damages, Defendant prays as follows:

- a) that it be discharged without cost or liability to the Defendant;
- b) that it has a trial by a jury of twelve persons as to all issues properly triable by a jury;
- c) that costs and attorneys' fees be assessed against the Plaintiff; and
- d) that it has such other relief as the Court deems just and proper.

[SIGNATURE ONLY ON FOLLOWING PAGE]

THIS 14<sup>th</sup> day of March, 2019.

Respectfully submitted,

**BENDIN SUMRALL & LADNER, LLC**

By: /s/ Anam Justus

BRIAN D. TRULOCK

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*Counsel for Defendant*

*Georgia CVS Pharmacy, LLC*



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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have served a true and correct copy of the foregoing **DEFENDANT GEORGIA CVS PHARMACY, LLC's ANSWER TO PLAINTIFF'S COMPLAINT FOR DAMAGES** upon all parties to this matter by electronically filing a copy of same with the Clerk of Court using the CM/ECF filing system which will automatically send notice to the attorney(s) of record, properly addressed to the following attorney of record:

David Dozier  
Dozier Law Firm  
327 Third Street  
P.O. Box 13  
Macon, GA 31202-0013  
[david@dozierlaw.com](mailto:david@dozierlaw.com)

THIS 14<sup>th</sup> day of March, 2019.

Respectfully submitted,

**BENDIN SUMRALL & LADNER, LLC**

By: /s/ Anam Justus

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*Georgia CVS Pharmacy, LLC*